

Qualia

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Qualia is a student-run journal at Bard College dedicated to collecting and publishing outstanding work in philosophy by undergraduates around the world. We are currently seeking editors, reviewers, and submissions for our fourth issue. Please send all submissions or inquiries to **philosophy.bard@gmail.com**.

This issue, along with previous years' issues, can be viewed online at <http://student.bard.edu/qualia/>

The staff and reviewers of Qualia would like to extend their gratitude to the professors and students of Bard's Philosophy program for their continued encouragement and support of this project. We would also like to thank all the students who submitted to us and made this third issue possible.

Thank you.

Foreword From the Editor

This has been an interesting year for *Qualia*. Kevin Powell, the publication's founder and original Editor-in-Chief, graduated from Bard last Spring, leaving behind this journal as a lasting contribution to the philosophical life of the college. Among those of us who have worked to put together this third issue, some have been a part of *Qualia* since its inception two years ago. Others have only just recently gotten involved in our ongoing philosophical project. Some of us look forward to joining Kevin, in a matter of mere weeks, in the world beyond undergraduate life, and others will remain at Bard for years to come.

But while the people behind *Qualia* may change, the values on which it was founded have not. In this issue, as always, we have tried our best to select the finest examples of undergraduate philosophical work we could find. Towards this end, we have employed a rigorous and anonymous reviewing process, and we've had to make some incredibly difficult decisions. Of the seventeen submissions we received this year, four were accepted, and three have been published in this journal.

It is worth noting that, as we put together this issue of *Qualia*, we encountered an unprecedented and rather peculiar state of affairs: of the seventeen submissions we received, not a single one was written by a Bard student. Because our reviewing process is entirely anonymous, we ourselves were not aware of this fact until after we had made our final decisions regarding which of the essays we were going to accept. In a certain sense, this situation can be seen as the fulfillment of one of *Qualia's* central goals, which, as Kevin put it, has been to integrate Bard College into the broader philosophical community beyond its campus. If our submission pool is any metric, then clearly we have been successful in this regard. At the same time, however, this fact suggests that, now more than ever, Bard may be in need of all the philosophical stimulation it can get by taking its place in this inter-scholastic community. We hope, therefore, that this third issue of *Qualia* will contribute meaningfully to Bard's philosophical climate, and that it will provoke thought and discussion wherever it is read.

Ethan Bleeker
Editor-in-Chief

A Case for Judicial Review

PAUL LEFRANÇOIS is a senior at Dickinson College, from which he will soon graduate with degrees in Philosophy and Political Science. While Paul is interested in a breadth of philosophical questions, the general categories of analytic philosophy and legal philosophy have most fully engaged his curiosities. With this background, he hopes to become involved in social justice law. During his time at Dickinson, Paul has competed in cross country and track & field and is ever thankful for the support of family and friends in his pursuits.

Introduction

On November 9th, 2009, the United States Supreme Court began hearings concerning the incarceration of juvenile offenders for life without parole in non-murder cases. The cases currently before the court are focused on determining whether sentencing juveniles to life prison sentences without an outlet for rehabilitation is a form of cruel and unusual punishment. Mr. Bryan Stevenson, representing the juvenile appellant, argued, "To say to any child of 13 that you're only fit to die in prison is cruel, and we believe that the Constitution prohibits that kind of punishment."¹ Arguments supporting parole or, at the least, the consideration of parole, point out that society and some existing law draw a distinction between adults and adolescents when determining the extent of a punishment; therefore, the courts should recognize that distinction as well. Arguments supporting indefinite incarceration emphasize a growing national trend of juvenile crime problems and the need to quell such problems with "stiff penalties."² Justice Stephen Breyer offered his own opinion as he summarized the controversy surrounding the cases and the decision facing the court: "As a general matter, human beings are uncertain about how much moral responsibility to assign to individuals in a particular category. Is it appropriate to sentence someone to life in prison without parole at the age of 10? No. 11? No. 17? Yeah, maybe. We are in an area of ambiguity, [attempting to determine] what justifies taking a person's whole life away."³

Deliberating over the constitutional rights and liberties of individuals living in a constitutional democracy, the Supreme Court exercises its power of judicial review – its

¹ Nina Totenberg, "Supreme Court Weighs Life Sentences for Juveniles," *National Public Radio*, November 9, 2009, <http://www.npr.org/templates/story/story.php?storyId=120251047>.

² *Ibid.*,

³ *Ibid.*,

power to determine what the Constitution *means* for the populace. Clearly, the Supreme Court applies judicial review in a very real way in the affairs of Americans. Although we might accept the reality of judicial review as an aspect of government today, it is nevertheless crucial to consider the nature of such an institution. Is the institution of judicial review democratic?

My intent in this essay is to explore the nature of judicial review and whether it can be deemed “democratic.” In doing so, I will examine the arguments of Samuel Freeman and Jeremy Waldron primarily, focusing upon their conceptions of constitutional democracy. But I will also touch upon the complexities of the exercise of judicial review with particular reference to the work of Ronald Dworkin. In section one, I offer a summary and explication of Freeman’s concept of precommitment and his defense of judicial review. In section two, Waldron’s reflections on democratic autonomy and criticism of precommitment take center stage. Section three stands as an analysis of the major point of contention between Freeman and Waldron, the general concepts they appear to agree upon, and the significance of such contention and agreement. Section three also seeks to further examine the tenets of a constitutional democracy (as identified by Freeman and Waldron) with a focus on understanding the meaning of precommitment. The final section and conclusion offer a brief examination of judicial review in application as related to Dworkin’s thoughts on interpretation. Notably, this section also serves to emphasize the often-controversial nature of judicial review. I then provide a brief review of where these conclusions lead us. Before setting forth, however, it should be noted that judicial review (both in the United States as well as other legal systems) has a deep and complicated history; consequently, the explication and analysis offered here has its limits and seeks to shed but a modest light on the nature of judicial review.

I. Freeman’s Criticism of the Procedural view of Democracy and Argument for Precommitment

A major argument against judicial review, which Freeman calls the “procedural view” of democracy, emphasizes that the two basic procedural principles of democracy are majority rule and equal political participation and that they are undermined by the institution of judicial review. If the judiciary exercises judicial review, the procedural view attests, any result is “contrary to the will of the majority.”⁴ Furthermore, because judicial review has “the authority to overrule legislation enacted through procedures that accord with [the principle of equal political participation],” it is a limitation on the right of a citizenry to equally participate in government.⁵ If subtle, there is nevertheless

⁴ Samuel Freeman, “Constitutional Democracy and the Legitimacy of Judicial Review,” *Law and Philosophy*, no. 9 (1990-1991): 332.

⁵ *Ibid.*, 334.

an important distinction drawn between the legislature and judiciary in this argument. Decisions made by the legislature (even if they contradict past decisions) are considered democratic because they are enacted through representatives of the population, corresponding with the principle of equal political participation. Judicial decisions on the constitutionality of such legislation, however, are undemocratic because they inherently review and evaluate decisions of the legislature, which we have just said operates according to procedural principles of democracy. The appointment or popular election of officials does not matter in this argument; judges, elected or appointed, could still have the power of judicial review. What matters is that the act of determining the constitutionality of the decisions of the majority (a majority which is democratic by the very definition of the procedural view) is counter-majoritarian. Because the legislature embraces the principles of and provides the mechanisms for majority rule and equal political participation, there is no justification for judicial review. The procedural view therefore maintains that judicial review, at best, is both undemocratic and unnecessary.

Freeman makes two major criticisms of the procedural view of democracy; each concerns itself with a separate principle of the procedural view. First, Freeman contends that majority rule in itself isn't necessarily democratic without constraints and limitations. He highlights this possibility with the following scenario: "One way this might occur is when majority decisions result in limitations on citizens' equal political rights by outright denial of their right to vote, or dilution of their voting rights by malapportionment."⁶ In another scenario, legislation that creates a political oligarchy fulfills procedural requirements and may thereby be considered democratic. Yet, a political oligarchy infringes upon the principle of equal political participation. Republican democracy, though it may contain some sort of majority requirement in its procedures, is clearly more than majority rule. In the second major criticism, Freeman asserts that the principle of equal political participation does not actually account for other "background conditions of modern democracies," such as civil rights.⁷ The two major principles designed to guide us in the procedural aspects of democracy cannot be considered the essence of democracy for the simple reason that they have the potential to limit, constrain, or blatantly ignore rights and principles which we naturally consider part of what it means for something to be democratic; the result is that, without seeming undemocratic themselves, the two major procedural principles can lead to undemocratic results. With the conclusion that procedural principles alone do not

⁶ *Ibid.*, 337.

⁷ *Ibid.*, 338.

account for the full complexity of constitutional democracy, Freeman discusses social contract theory, precommitment, and a democratic justification of judicial review.

Social contract theory constitutes in part what Freeman sees as a fuller view of constitutional democracy. Freeman begins his justification of judicial review with a clarification of how “constitution” ought to be defined. He explains, “[any democratic constitution] states the conditions according to which all laws are made [and therefore], by definition it cannot itself be law . . . but must have some other foundation.”⁸ So what is this other foundation – that elusive foundation of a constitution? Freeman asserts that it is found in a social agreement, or social contract, made prior to the establishment of formal government. Rational individuals, who exercise self-respect and pursue their own good, see this contract as a proper step toward achieving their own “good.” In these pre-constitutional stages, deliberation and debate over what can be deemed the “public good” lead individuals to take an interest beyond their own ends. Summarizing John Stuart Mill’s analysis of social contract philosophy, Freeman states that, “In having to explain and justify our claims and positions to others, we must take their interests into account and appeal to commonly held principles.”⁹ In other words, the very act of seeking to justify our actions and beliefs to others creates a sort of social interdependence of shared principles. This interdependence of principles and the agreement in social contract make up Freeman’s argument of how precommitment justifies judicial review.

In a constitutional democracy, there is a sovereign body politic. This is the constituency of the state – the individuals who make up the whole. Freeman asserts that this sovereign body politic delegates and limits the power of their government through a constitution (a constitution, notably, which includes but is not limited to a written document).¹⁰ He states that, “Like any power of government the authority to make laws is . . . fiduciary and is only to be exercised for the public good.”¹¹ The aforementioned shared principles, agreed upon through precommitment, make up the pillars of a constitution and define, in addition to social goals, the limits placed upon procedural majority rule. Freeman points out that, “What makes a constitution democratic is not equal consideration in majority procedures, but that it specifies rights and procedures devised to promote the good of each citizen and maintain the equal rights that constitute their democratic sovereignty.”¹² In criticizing the procedural view of democracy, Freeman emphasized that majority rule can infringe upon basic democratic

⁸ *Ibid.*, 341.

⁹ *Ibid.*, 344-345.

¹⁰ *Ibid.*, 348.

¹¹ *Ibid.*, 349.

¹² *Ibid.*, 350.

principles, including other procedural principles. We said then that a legislature, bound by nothing but majority rule, cannot be understood to be the essence of democracy. A constitution with a bill of rights is certainly a good way to address these issues. Yet, a bill of rights alone does not explicitly explain how a legislature's actions, if undemocratic, can be reversed, avoided, or amended (except through more legislative action). This scenario, Freeman argues, represents the context in which we should understand judicial review. Judicial review is a means to ensure the equal political status of citizens – it does not represent a limitation of equality; rather, judicial review is a constraint upon legislative power for the sake of ensuring equality if and when majority rule fails. Freeman expresses this point well with the following passage: “In the absence of widespread public agreement on these fundamental requirements of democracy, there is no assurance that majority rule will not be used, as it so often has, to subvert the public interest in justice and to deprive classes of individuals of the conditions of democratic equality. It is in these circumstances that there is a place for judicial review.”¹³ Freeman sees majority rule and judicial review as similarly justified by the principles of freedom and equality. Yet, he continues, the potentially undemocratic nature of procedural democracy necessitates judicial review – an institution based more on the precommitment of a society than strict procedure.

II. Waldron's Criticism of Precommitment and the Case of Persistent Disagreement

Waldron explores and criticizes Freeman's concept of precommitment and views of democracy. He begins with an important and curious note on Thomas Hobbes and John Locke. Waldron explains, “John Locke and Thomas Hobbes both believed in popular sovereignty . . . [and although the decisions of said sovereign body are democratic in a sense] it was at the same time a significant choice between democratic and undemocratic options. . . . Neither of them thought a constitution became more democratic simply by being the upshot of popular choice.”¹⁴ Social contract philosophy as interpreted by Freeman suggests that the establishment of a constitutional democracy includes individuals who agree upon certain principles and guidelines for a society. Those same individuals make a precommitment to protect those principles because they believe that those principles are inherently democratic and good for the public. The guidelines and principles make up the heart of that society's constitution and, Freeman argues, are protected in times of great disagreement by the institution of judicial review. All of this is established through popular sovereignty and to ensure future democratic

¹³ *Ibid.*, 355.

¹⁴ Jeremy Waldron, *Law and Disagreement* (Oxford: Clarendon Press, 1999), 256.

popular sovereignty. Waldron considers whether Freeman's concept of precommitment and reliance on social contract philosophy are accurate; furthermore, he asks how we should view a sovereign body politic as it develops over time. In doing so, he likewise examines Freeman's justification of judicial review.

In evaluating and defining precommitment, Waldron explains, there are different scenarios which can be considered. In one model, wily Ulysses, Homer's great hero from antiquity, tells his men to tie him to the mast and ignore whatever he might say upon hearing the sirens' song, no matter how he may beg or curse once influenced.¹⁵ Waldron seems to suggest with this analogy that Ulysses, representing the sovereign body politic, makes a precommitment to avoid some wrong (bending to the will of the sirens and causing disaster for all onboard), and his men, collectively representing judicial review, ensure that he will not take action which betrays that precommitment. The Ulysses example represents a clear evil to be avoided (nautical disaster) and a good to be secured for the benefit of all (except the sirens, of course). Waldron emphasizes that although in this model the reasoning behind precommitment is clear and the distinction between what is good and what is hurtful is also clear, the precommitment a sovereign body actually makes is much more complex. In the second model, Bridget, a thoughtful and well-read young woman, deliberates over the value of different theologies; she decides upon a monotheistic faith, locks up all her religious and philosophical texts, and gives the key to a friend, or group of friends, asking that she never be allowed to have the key again.¹⁶ Bridget represents popular sovereignty and her friends represent judicial review. But what if Bridget, reconsidering, wants to reexamine other faiths, other ideas? Should her friends give her the key? Bridget could have been wrong, but still rational, when she made the precommitment. Unlike Ulysses, there is no siren song to influence Bridget negatively; as she reconsiders, we might safely assume that she is still a rational being. Waldron relates this to popular sovereignty, stating that, "The idea of a society binding itself against certain legislative acts in the future is problematic in cases where members disagree with one another about the need for such bonds, or if they agree abstractly about the need but disagree about their content or character."¹⁷ Precommitment binds the sovereign body politic to principles and ideas which may become the object of disagreement. As in the case of Bridget, this disagreement is often on grounds just as reasonable as those initially used to justify the precommitment. Waldron links this criticism to the institution of judicial review, arguing that, "It becomes ludicrously problematic in cases where the form of precommitment is to assign [authoritative] decision, procedurally to another body,

¹⁵ *Ibid.*, 259.

¹⁶ *Ibid.*, 268-269.

¹⁷ *Ibid.*, 269.

whose members are just as torn and just as conflicted about the issues as the members of the first body were.¹⁸ Waldron asserts that a court exercising the power of judicial review, especially a court of divided justices, has the same type of reasonable disagreement that the sovereign body politic has. Because it is a reasonable disagreement (recall Bridget's reconsiderations) and occurs at several levels, Waldron concludes that precommitment may be the self-implementation of constraints without full knowledge of what those constraints might imply. The problem, in other words, is that Ulysses gives no clear order; there is no siren's song on the wind.

III. Freeman and Waldron, Compared

The concept of precommitment is crucial to both Freeman and Waldron. While Freeman sees precommitment as part of the justification for and defense of judicial review, Waldron contests that the realities of precommitment make it more like submission than well-thought out and agreeable social contract. Much like Hobbes and Locke, Freeman and Waldron seem to agree upon the basic merits of popular sovereignty. Also like Hobbes and Locke, they come to great disagreement over the details of popular sovereignty. The comparison to Hobbes and Locke stops there, however, because both Freeman and Waldron seem to advocate some form of democracy; it is the details, especially the institution of judicial review, which they contest. Freeman's argument for judicial review is an intellectually pleasing way to understand the institution – as in the Ulysses model, there seems to be a set of clear cut, distinct principles to uphold and wrongs to be avoided. But Waldron's criticism of precommitment is important; it points out a critical aspect of precommitment which needs to be examined. Is precommitment anything more than submission to authority and the abandonment of autonomy? How should we define autonomy? Waldron himself explains that, "Freedom, after all, is not just moving hither and yon with the play of appetites: it is a matter of taking *control* [his emphasis] of the basis on which one acts; it is a matter of the self being in charge of its desires and not vice versa."¹⁹ He then goes on to emphasize that, as established by an autonomous sovereign body, a constitution is "a means by which the will of the people secures its own responsible exercise."²⁰ Yet, by contrasting that understanding with a review of Bridget's dilemma, the idea of collective autonomy (popular sovereignty) seeking to secure "its own responsible exercise" falls under scrutiny. For, Waldron argues, "the *act* [his emphasis] of precommitment may be autonomous; but its operation may be something less than a consummation of the agent's autonomy inasmuch as it is subject to the judgment of

¹⁸ *Ibid.*, 270.

¹⁹ *Ibid.*, 259.

²⁰ *Ibid.*, 260.

another.”²¹ Waldron suggests that this act is like voting for an oligarchy – the process may fit a procedural requirement of democracy, but the end is anything but democratic. Vesting power in the institution of judicial review is this same sort of precommitment from Waldron’s point of view; it is the submission of autonomy to another’s authority and judgment.

Here it’s important to note that Freeman’s view of precommitment is not constrained to the procedural view of democracy. Indeed, one of the first steps Freeman takes as he explains precommitment is to criticize the procedural view. Freeman argues that the nature of constitutional democracy is more complex than the procedural view allows it to be. To elaborate upon this complexity and as a response to Waldron’s criticism, Freeman could make the argument that there are certain principles which are undeniably “good” for any sovereign political body. The most basic of these principles might be understood as equality within a citizenry. Notably, this is not terribly unlike Ronald Dworkin’s idea of “principles inherent in the law” or John Finnis’s writings on Natural Law. These principles are arrived at during the early stages of establishing a constitution. Natural Law theory expects these “goods” to be included in the legitimate founding of a government and legal system. Legal Positivism asserts that there is a conceptual difference between law and morality (otherwise referred to as the “goods”), but that the two can coincide. Most importantly though, the idea that undeniably good principles exist is rooted in the assumed reasonableness, or most basic intuitions, of human beings. Moreover, Freeman could assert that the principles to which a sovereign body politic commits itself are not necessarily strictly defined but are open to interpretation. If we reconsider Bridget’s dilemma in light of this, Waldron’s example becomes potentially less problematic. For, precommitment to basic and undeniable principles (principles which are later open to interpretation) is not the same as arbitrary submission based upon momentary belief. That is to say, a distinction must be drawn between a group precommitting itself to what is believed to be good solely for itself and a group precommitting itself to general principles for the sake of a “public good” indefinitely.

An important aspect of the idea of existent principles which are “good” for a sovereign body politic and open to interpretation is that of intention. Certainly, when the architects of a constitution convene and establish what they believe to be the basic principles of a democracy, they consequently bind (precommit) themselves and future populations. Their purpose seems to consider both immediate and lasting society. Yet, I do not think that this means that the architects’ specific understanding, relative to their unique time in history, of the principles is everlasting. Rather, as social circumstances

²¹ *Ibid.*, 262.

change and history rolls on, the specific intentions lose influence, but the broader principles remain. Freeman touches upon the issue of intention when he states that, "Our forebears' intentions can be of little relevance to constitutional interpretation in a democracy. For it is now our constitution; we now exercise constituent power and cannot be bound by our ancestors' commitments."²² Constituent power, as Freeman expresses it, is more complex than majority rule. Precommitment, from this perspective, is a social contract aimed at establishing lasting principles, but not the precise intentions of the architects themselves. Judicial review, as established by precommitment, is an institution aimed at protecting these broader principles. It is best understood as the realization of democratic principles, not submission to arbitrary authority.

Conclusion

In review of this analysis, the following questions from the introduction remain: how much responsibility should we place upon juvenile offenders? What does the United States Constitution as well as our legal and social history suggest? How does our personal understanding of democratic principles affect the decision? These questions, as well as who should provide an authoritative reply, are as controversial and important as they ever have been. Ronald Dworkin in *Law's Empire* provides a useful analogy for judicial decision-making. He introduces the analogy, stating, "Consider the difference between a poem conceived as a series of words that can be spoken or written and a poem conceived as the expression of a particular metaphysical point of view."²³ Dworkin goes on to explain that one can call the words and structure of the poem the understanding of the work in its "first sense," but that any interpretation of the poem's *real* meaning is understanding in the "second sense."²⁴ The first sense, consequently, isn't open to great debate; yet, the second sense of the poem is controversial and open to deliberation. While there may be great debate over the second sense of the poem's meaning, I don't think anyone would reasonably assert that such disagreement should be a reason for ending all analysis of the poem. Rather, disagreement, if rational, would likely be encouraged. Rational disagreement and consequent discussion have the power to enhance and deepen the understanding, but not to limit it. The same, I think, can be said for judicial review. In a legal system, it is necessary to agree upon a general understanding of the law, but we must also be prepared to analyze what the law *means* in our own day and age. Judicial review as part of a constitutional democracy's precommitment to basic ideals is a means for truly and legitimately seeking the second sense of the law. Like in Dworkin's poem analogy,

²² Freeman, "Constitutional Democracy," 370.

²³ Ronald Dworkin, *Law's Empire* (Cambridge: Belknap Press, 1986), 16-17.

²⁴ *Ibid.*, 17.

disagreement and deliberation are crucial to understanding the law's meaning and applying democratic principles. Freeman and Waldron seem to agree on the importance of disagreement and deliberation in democracy, despite their differing views of precommitment. The very nature of judicial review is that it provides one understanding of the law as being more authoritative than another, but that does not and should not put an end to a public's discussion of the law. Undoubtedly, there are human flaws in the application of judicial review – there is not always agreement and arguments are not always rational. It is hardly a perfect institution and we must be constantly assessing its role in society; yet, when weighing permanent incarceration against rehabilitation and considering the consequent effect upon the lives of juvenile offenders, it seems like an assessment well worthy of our attention.

Post-Script (Winter 2012)

The cases from 2009 referenced in the introduction, namely *Graham v. Florida* and *Sullivan v. Florida*, led to the Supreme Court's 2010 decision that, in accordance with the XIII Amendment's prohibition of "cruel and unusual punishment," juvenile offenders could not receive life prison sentences so long as that offender did not "commit or intend to commit homicide."²⁵ In a sentence, the Court held that, "The Clause [in the XIII Amendment] does not permit a juvenile offender to be sentenced to life in prison without parole for a nonhomicide crime."²⁶ Additionally, the Court emphasized that, "it could not be conclusively determined at the time of sentencing that the juvenile defendant would be a danger to society for the rest of his life, and a sentence of life without parole improperly denied the juvenile offender a chance to demonstrate growth, maturity, and rehabilitation."²⁷ Though *Graham v. Florida* and *Sullivan v. Florida* have been decided by the Court, a legal and public debate over the issues of juvenile cognitive competency and legal standards in cases such as these continues today.

²⁵ *Graham v. Florida*, 560 U.S. ____ (2010).

²⁶ *Ibid.*,

²⁷ *Ibid.*,

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The Holy Moment of Film: Cavell and the Divine Camera

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It does not take an extremely close reading of Stanley Cavell's *The World Viewed* to realize that the text is as religious as it is philosophical. In fact, one need not even resort to "reading between the lines" to extract certain Judeo-Christian references- they are there in quite plain sight. One of Cavell's most obvious of such references occurs in his excursus on modern painting²⁸, in which he seems to liken the relationship between a painter and her work to that between God and His creations: the act of *being done*, of declaring the work not only finished but, by virtue of being finished, *good*, is just as- if not more- important than production itself in the creative enterprise of both the artist and God: "...no matter how much work goes into the making of a work, at some point the work must be *done*, given over, the object declared separate from its maker, autonomous; that he has seen it, that it is good" (Cavell, 111). Cavell's choice of words is an explicit nod to the story of creation in Genesis from which we can surmise that, for Cavell, the creation of a painting or some work of art is no less miraculous than the birth of Adam. But what more can we gather from this instance of Biblical allusion? Is Cavell merely evoking Biblical ideas to emphasize the mysterious, the "magical" aspects of art, or is his agenda more complex? Most importantly, how is *film* implicated in Cavell's agenda?

Later portions of Cavell's text, most notably "More of the World Viewed," provide some of the answers we are looking for. For one, it becomes clear that Cavell uses religious language not merely as a literary device but as a tool for expressing a broader idea about film. He explicitly frames the "revelatory fate" of the camera- that is, the fate of the camera to reveal all and only what is revealed to it- as a "myth of immaculate conception"²⁹ (184), suggesting a certain divine power on the part of the

²⁸ Chapter 15 of *The World Viewed*.

²⁹ The meaning of this claim will be clarified later in this essay.

film-making apparatus. Now, it is important to note that “More of the World Viewed” is an epilogue, and that Cavell’s primary aim in crafting this epilogue was to clarify ambiguities in the main text. Thus, his suggestion of a certain divine power on the part of the camera should not be read as pure addendum (a mere afterthought) but rather as a clarification of his previous assertions about the camera’s ability— that is, a closer and more explicit reading of his own thoughts. As it turns out, what Cavell has to say about the power of the camera in his epilogue retroactively influences the way we read his claims about the camera as well as how we extrapolate claims he makes about *art* to *film*. With regard to the latter point, I will suggest that Cavell’s allusion to creationism in the finishing of a painting or work of art also applies to film-making³⁰, meaning the “miracle” of declaring a piece “done” is not restricted to the easel. For a film to be declared “done” is equally miraculous. But for film, the ideas of “creative genius” or “artistic authority” are far more complex notions because there is a sense in which it is the camera, itself, that makes the declaration, that calls the finished work “good.” We can now begin to discern important implications Cavell makes about the power of the camera— namely, that the camera is very much a symbol of God, that it is *ontologically God-like*. In this paper, I will present and analyze evidence to suggest that Cavell contributes a purposeful construction of the camera as a deity of sorts (more specifically, the Judeo-Christian God) and then discuss what this reveals about Cavell’s broader project in *The World Viewed*.

What is it about the camera that is God-like? Or, perhaps the better question is, what is God like? In the Judeo-Christian tradition, we know, for one, that God is the maker of souls, the *giver* of souls. We also know that God knows all, that He is omniscient. Yet how can these ideas be considered in the context of film? How can the camera be a *giver of souls*, or a *knower of all*? Richard Moran provides a useful analysis of the camera’s ontology based on some of Cavell’s assertions in *The World Viewed*. He points out something Cavell says about film in an important footnote in reference to the movie *Badlands*: “It is a film that invokes the medium’s great and natural power for giving expression to the inexpressive, in everything from the enforced social silence, or shyness, of Chaplin and Keaton to the enforceable personal silence, or reserve, of Bogart and Cooper” (Cavell, 245 n. 62). The relevant part of this passage is that the medium of film can make expressive the inexpressive, and this will prove to be an important part of the camera’s special if not divine power. The camera has the unique ability to “bring

³⁰ This ought to be evident *especially* after a reading of “More of the World Viewed,” since this text reveals that the philosophical work done by Cavell’s use of religious language is in the making of claims about the *camera’s* “special powers.” It should also be noted that the point of Cavell’s excursus on modern painting is to provide groundwork for later discussing the possibilities of modernism in *film* (Rothman and Keane, 185), so any seeming tangents he goes on are all in service to his central concern, which is film.

to life” that which is in within its frame insofar as it forces expression out of its subjects. As Moran puts it, “It is not simply that the camera records and presents the ongoing career of the human voice and face, but that it finds more there than the possessor himself found to say, and makes everything potentially expressive revelatory” (5). Under the gaze of the camera, the subject is entirely within the realm of expression– she cannot help but be expressive, and she cannot escape significance. The camera not only demands meaning³¹ in its gaze, but *automates* it. It is in this sense a paradoxically active and passive power, because the camera functions merely by receiving an image (something it cannot *not* do), yet in doing so exposes the souls of its subjects insofar as it necessitates their expression. It is this power of the camera that makes even silent moments expressive, *meaningful*, in film. The camera effectively finds more than the actor has to say, finding something in nothing. Silence is louder than ever for the camera. It is also this power which allows those we might call “non-actors” to be “brought to life” in film, for the responsibility of the subject is quite slim given the camera’s ability. She need merely be in the frame to be expressive. In this sense, there is perhaps too much importance placed on the idea of *presence* in actors. After all, to have presence might merely require *being present* for the camera.

The divinity in the camera’s ability to make expressive the inexpressive is the way in which it produces something from nothing, and not just *any* thing, but specifically the soul– life. The camera takes sets, scenery, costume, makeup, and even a sometimes inexperienced subject (a “non-actor”) and gives us the soul. In its gaze, it opens windows into the subject’s purest essence, giving her life insofar as it reveals the life in her, the fact *that* she is alive. The power the camera has to give souls is also, I will argue, what makes it omniscient, or all-knowing. The camera’s ontology necessitates that that upon which it sets its gaze, upon which it is made to look, is completely revealed, completely known, to the point where even the mute subject’s words are perceived amid a deafening silence. The camera’s expressive agency is its divine knowingness– to know its subject’s soul is the most intimate sense in which it can know the subject.

The moment at which the camera captures what is within its frame has been called *holy*, and for good reason (Shaviro, 63). When a camera captures its subjects– as we have discussed, necessitates expression from them– it is doing more than merely giving us souls. To be sure, this act alone is holy enough, but it does not provide a complete picture of the *holy moment of film*. In Richard Linklater’s film *Waking Life*

³¹ The Kuleshov experiments are often cited as evidence of the claim of “condemnation to meaning.” According to Barthes, the “regime of the photographic contains no place for an opting out of the field of meaning”– the camera “forces the issue of expressiveness on the human face” (Moran, 21).

(2001), filmmaker Caveh Zahedi explains how, for Bazin, the moment captured on film is holy:

And so what film is actually capturing is, like, God incarnate, creating. You know, like this very moment, God is manifesting as this. And what the film would capture if it was filming us right now would be, like, God as this table, and God is you and God! is me and God looking the way we look right now, and saying and thinking what we're thinking right now, because we're all God manifest in that sense....So film is like a record of God or the face of God, or of the ever-changing face of God. (Linklater [2001]; Shaviro, 67)

What Zahedi is presenting here is an account of the paradox in which cinema “affirms time and duration,” yet does so in an “eternal present” (Shaviro, 67). The moment the camera begins recording, the finitude and duration of time suddenly become pronounced. The subject becomes hyperaware that she is, in this moment, being filmed, that this is the moment being filmed, that once she is done being filmed, the moment will have passed—time will have escaped her. Yet, simultaneously, the camera also seems to stop time. This moment will always be *this* moment, ten minutes from now or ten years from now. The subject will forever have a claim on the moment in which she was filmed, for the moment itself has been preserved. This is the point Bazin seems to be making, and it is the basis for Zahedi’s attribution of the idea of a *holy moment of film* to Bazin. Bazinian realism holds that the “doubling of the world by its own image” preserves “what would otherwise pass away, to render the very passage of time present” (Shaviro, 66-67).

But where is God to be found in the holy moment of film? Perhaps He resides in the paradox of the cinematic preservation of time. Perhaps He *is* the paradox. Men live in moments, God is timeless. Men operate in the context of lifetimes, God operates in the context of eternity. What film does—what the *camera* does—is present timelessness in a context we can appreciate, to present *God* in a context we can understand. The holy moment of film is the moment in which God is made known to man, in which He does so by *becoming* man (“We’re all God manifest...”). There is thus very much a sense in which the holy moment alludes to the coming of Christ. Christ is God become man, and not only does Christ’s coming signify the eternal (God) presenting itself in the temporal (man), but Christ’s salvation of man by his death—the most perfect illustration of man’s doom to temporality—has effectively given man the gift of *eternity*. What does eternity mean for man? What does timelessness mean for the camera’s subject? In both cases, it

means an ability to be aware of the holiness of moments. Film's reproducibility is what allows its subjects to recall moments for their holiness, to be aware of the holiness of existence not just in the moment filmed but more generally. The holy moment is the reward of eternity *in a moment*. It is the promise of timelessness even though time must, for the moment, be endured. The moment filmed is holy because it is not merely one in a series of moments, but now a moment in the context of an eternity, a time point in a universe of discourse in which time is not even an element. Film captures "transcendence amid transience and makes us aware of sacredness in the midst of fleeting reality" (Greydanus, 2011). Existence now, existence in the moment of this clip in which I am being filmed, is miraculous, because with the camera's gaze my soul is not merely captured but made eternal. It is in this sense that on film, God is manifest *in me*— His timelessness becomes my timelessness. The camera guarantees me the timelessness of its medium. That the camera is capable of making this type of covenant with its subjects is a testament to its divine ontology.

An important distinction to be made between God and the camera is that, while God is creative of His subjects, the camera is not. To be sure, in Zahedi's description of the holy moment of film, he mentions that what film is capturing is "like, God incarnate, creating." Now, while it might prove useful to interpret this passage as indicating that the realism of cinema somehow taps into the creative power of God (Greydanus, 2011), it should be done with caution, for the camera does not *create* worlds as God can. Instead, I think we should read Zahedi as referring to how, in film, each recorded moment is imbued with eternity. So his references to 'God' may more accurately be construed as 'instances of eternity,' alluding to the paradoxical nature of the cinema to momentarily (temporally) stop time (permit timelessness by negating the relevance of time's restraints on humanity). The camera does have creative power insofar as it "creates" timelessness (just as we might say "God 'creates' timelessness," the thrust of the word "create" is rather weak and not indicative of what we really mean when we say God "creates" man), but it does not create its subjects. Cavell is fairly clear about this point, saying that the only thing film does automatically is *reproduce the world* (103). That is to say, the camera should not be seen as a primarily productive entity but rather as a *reproductive* entity, one which has the power not to create but to *recreate*. God produces the world; the camera only re-produces it by capturing an image.

Does this pose a serious problem to our description of the camera's ontology as essentially God-like? In other words, is God's ability to create so fundamental that to deny the camera this distinct capacity would be to negate all of our previous claims about the camera's divinity? I think not, and I will argue that the reason the camera maintains its divine ontology is because of the important role of reproduction and

rebirth for God- that the camera's recreative capabilities are more indicative of divine status than even an ability to *create* in the physical sense. I want to claim that the process by which the camera reproduces the world is significant of a sort of a rebirth- a baptism- of the world viewed³². In Christianity, rebirth is signified by the ceremony of baptism. While baptism is often performed on infants, there are numerous Christian denominations which hold that a true baptism can only happen later in life, when one has the rational capacity and emotional maturity to truly accept God of her own accord. This is the source of labels such as the "born-again Christian," who has come to acknowledge God, to be aware of God of her own volition and so is reborn, having been born once as a human being and now as a Christian, an *object of God's love and affection*. The camera has the ability to baptize its subjects in its own way. Just as God baptizes His disciples into His Church, into eternity by virtue of belief³³, so does the camera baptize its subjects into the eternal medium of film. For God, the baptism is more important than the birth, itself, because the second birth is the one in which man comes truly to be a child of His. Most importantly, when man is baptized, his subjectivity becomes irrelevant- God becomes the subject of his life, he an object of God's love. To be objectified by God is to be saved by Him. Similarly, in the frame of the camera, the subject loses subjectivity. In being aware of the camera, of being filmed, the subject becomes an object of the camera's gaze, immersed in the baptismal waters of its realm of automated expression³⁴.

What is this 'gaze' to which I keep alluding? And how is the gaze of the camera like the gaze of the "eye of God?" Sartre has much to say about how *gaze* or *look* is important in controlling being and subjectivities. In *Being and Nothingness*, he suggests that when one is alone, she is the center of the world. She is subject. Yet when someone else enters the room, she suddenly feels as if subjectivity is removed from her, and she looks at herself as an object, now seeing the world as the *other* sees it (252-302). Insofar as God is the ultimate other, He is also the ultimate "thief of subjectivity." In God's presence, man is objectified, and because God is *omnipresent*, man is always objectified under His gaze. The gaze of God is thus one of complete removal of subjectivity. But

³² There is evidence in "More of the World Viewed" that Cavell does not primarily think of the camera as "giving birth" to a film. In discussing Sesonke's myth of immaculate conception (which describes the fate of the camera to reveal all and only what is revealed to it, denying a conception of the work in the camera), he says that the camera is "a kind of room, not a kind of womb" (184-185). We should not look at the camera as giving birth to a film- not as a womb, in that sense, but rather as a room, a room in which (I want to argue) a ceremonial baptism, a rebirth, of the subject takes place automatically. There is no gestation. It is instantaneous capture.

³³ As we will see, God's gift of eternity depends not only on belief, but also on acknowledgement.

³⁴ We should not necessarily look at "objectification" in this sense as a bad thing, for it ought to be the case that, insofar as one's baptism indicates that she has become a total object of God's love, that God has come to occupy a central place in the narrative of her life, objectification by God is quite the high honor. Now to anticipate Christian or Jewish refutations to this, I am not suggesting that God only loves those who have been baptized, rather that only those who acknowledge God can claim to be totally *of* Him.

does the camera have a similar power? Certainly no single camera is omnipresent in the way God is³⁵, but in the frame of a given camera, the effect of the gaze on its subjects is similar to the effect God's gaze has on man. When put in front of a camera, a subject feels objectified in that the camera is "an extension of the eye" (Cavell, 129). It literally does look at what is before it, and, accordingly, when I am aware of the camera's presence, I am apprehensive of its look, for it suggests I am no longer the total subject of this space. What the camera does is induce a self-consciousness in the subject which, as Zahedi claims in the holy moment scene of *Waking Life*, is "unavoidable" and "interferes with the affective intensity of just living in the moment [of being-in-itself, which Sartre calls a non-conscious sort of being]" (Shaviro, 68). This might be a useful framework for thinking about the fear embedded in certain cultures that one's soul is stolen by the camera when her photograph is taken. Certainly a superstition (one hopes), yet quite well-grounded philosophically. If, like Cavell suggests, the camera is an extension of the eye and if, like Sartre says, the look of another threatens to remove from her total subjectivity (not necessarily her subjectivity in total), then, be it as it may, the camera must remove (or we must at least feel *as if* it removes) something elemental from us upon a capturing of our image. It must threaten³⁶ to remove from us our claim to total subjectivity.

The question we might now consider is, while it may be mostly clear how the camera is an extension of the eye capable of the Sartrian "look," how can we conceive of the camera specifically as the eye of God? We must somehow explain how the camera removes its subjects' total subjectivities (or seems to). I will argue that the explanation involves an understanding of the camera's ability to force expression out of the inexpressive, to give life to the lifeless, to *know* all by coming to know all there really is to know about the subject in a frame— what her soul is like. But, as Moran might argue, the human eye also has this sort of uncanny perceptive faculty, the faculty to "read" someone by looking at her, specifically into her eyes. In fact, he makes special mention of the role of the eyes in expression, citing the adage that "eyes are the windows of the soul" (14). They are windows in that one can look into another's eyes to discern

³⁵ I am referring to spatiotemporal omnipresence.

³⁶ I have been careful to use the word 'threaten' thus far in describing the way in which a camera removes a subject's subjectivity because, as I will discuss shortly, I do not believe the camera actually objectifies its subjects in the same way God can. God can actually claim one's subjectivity. The camera only seems to (in fact, I will eventually claim that the camera sort of "borrows" the subject's subjectivity during the moment of filming, photocopies it, and gives it back). The "total removal of subjectivity" is a product of film's reproducibility— the potential for the iteration of the camera's gaze in which, each time the moment on film is viewed (recalled), the subject's apprehension of the camera's look (the feeling she has that her subjectivity has been totally robbed) is relieved. What the camera has a claim on is the *image* of the subject's subjectivity. We cannot in any sane manner say that the camera sucks subjectivity from the actor him- or herself each time the film is replayed. Movies would be quite terrifying in that case.

expression that might not be outwardly manifested (e.g. “he acted happy but there was a sadness in his eyes”). This explains the apprehension of the look– it often reveals more than one wants to be revealed; expression is often forced when expression is not intended or desired. Even in blind people, Moran argues, eyes can be expressive. It is not the capacity to see which renders them windows. So if the human eye can perceive one’s soul in its gaze, why can we not be satisfied saying that the camera may merely be like a human eye? I think the key component of the camera’s gaze which the human eye lacks is the way in which it perpetuates what is in its frame. In his essay, “What Photography Calls Thinking,” Cavell makes the appropriate claim that “the camera is an emblem of perpetual visibility” (131; Moran 12). And so it is. What the camera’s gaze has in common with God’s gaze is *perpetual visibility*, the ability to make what is within its gaze perpetual, timeless, eternal– not to merely render it “alive,” but “forever alive.” The human memory is generally limited such that what was seen, what was gazed upon even a moment ago, exists as only an incomplete, fuzzy clip in the “mind’s eye.”³⁷ I may be able to look upon another and, in some sense, make her feel as though I am drawing from her at least some of her total subjectivity, but what I have not the ability to do is reproduce that upon which I gaze. I cannot perpetuate her or what I see in the same way a camera can, or in the way God can, nor can I remove her subjectivity totally. After all, she has the same claim on me, and so subjectivity is in somewhat of an equilibrium in my interactions with other people, where all are equally apprehensive of the look and all feel objectified. Invariably, however, each person retains subjectivity, for where I feel I have lost and another has gained, so the other feels she has lost and I have gained. In the case of God, it is the ability to totally remove the subjectivity of the subject in the gaze which gives Him the ability to perpetuate what is in the frame of the gaze. God perpetuates via baptism. When we submit ourselves to God, when we acknowledge God, we become objects of His supreme subjectivity, and we are made eternal in the covenant of His salvation. In the case of the camera, it is, in fact, the ability to perpetuate the subject which allows it to “totally remove” the subjectivity of the subject. This is the nature of the camera’s medium, of the medium of *film*– it is reproducible. It is not the moment of capture, *per se*, which removes the subject’s subjectivity *totally*. It is, rather, the constant iteration of the gaze– even just the *potential* for iteration. Each time the film is reproduced, replayed, or recalled as such, in effect another moment of gazing has begun. This might be described as the camera’s own omnipresence. While God possesses both spatial and temporal omnipresence, the camera possesses only temporal. But it is omnipresence, nonetheless, and it is enough to

³⁷ This is a useful framework for understanding why those with near perfect memories are said to have *photographic memories*. What is photographic about them is that they are reproducible, and that what has been gazed upon has been made eternal in the mind.

ensure a sort of *perpetual gaze*, perpetual across time, for the camera. This is the sense in which the camera's ability to perpetuate what is in its frame allows it to claim total subjectivity, a status held only by God.

I have a few times introduced the term 'acknowledgement' in discussing the relationship between man and God, but I have thus far failed to provide an adequate explanation of the concept. Acknowledgement is of particular importance to Cavell's project, so before attempting to construct its meaning in the context of God, it would be helpful to understand what Cavell makes of it more generally. For Cavell, acknowledgement of another is more than just possessing knowledge. Rather, a central feature of acknowledgement is *responding to* this knowledge, giving *expression* to it (Dula, 213-214)- "I must do something about what I know" (214). When I know I was in the wrong, acknowledging that I was wrong involves admitting my error or apologizing to those whom I have offended in my wrongdoing. Acknowledgement is thus not only about expressing one's own knowledge, but recognizing the *self* in relation to *others*. It "calls for recognition of the other's specific relation to oneself, and that entails the revelation of oneself as having denied or distorted the relationship" (Dula, 213). This is the sense in which Cavell thinks that selfhood can only be achieved by acknowledging others (and they must also acknowledge us) (Rothman and Keane, 65): only by acknowledging that we are not alone, by escaping our own subjectivity, can we have any meaningful idea of the self, of who we are. That is, to find the self demands that we escape metaphysical isolation (Rothman and Keane 65). The "victory" of the camera, I will argue, is that, by claiming total subjectivity from the subjects in its temporally omnipresent (because reproducible) gaze, film is a human attempt to fulfill this wish of finding the self by escaping subjectivity and metaphysical isolation. Being objectified on film is not a bad thing, then, or at least not far from what we are really asking for. When we are on camera, we feel as though our souls are literally being peered into, that we are no longer subjects in our own isolated universe. The camera is the other, and it claims our subjectivity, as does God. But what is different about the camera is that it only *seems* to claim our subjectivity in the moment of its gaze, whereas God can really claim our subjectivity in a moment (if we acknowledge Him in the moment). The camera is mere machine, regardless of hints of divine agency it might possess. God is Being, the essence of Life, the *ultimate subject*. The camera is *like* the ultimate subject when it is filming insofar as it makes us feel as if we are totally objectified, as we might feel under God's gaze. But ultimately, our subjectivity is never quite stolen when we are filmed. It is rather magnified, drawn out slightly so as to be viewed. It is imprinted on the film. The camera has merely photocopied it. Now why is it that one's total subjectivity can pass from the subject to

God but not from the subject to the camera at the moment of the gaze? I will argue that it has to do with acknowledgement. The difference between my relationship to God (or my *potential* relationship to God) and my relationship to the camera is that, with God, I can make the choice to acknowledge Him and in so doing hand over my subjectivity to Him. This is the ceremony of my baptism: I agree to become a pure object of God. I make Him the subject of my world. I matter, but only on the condition that God remains central. The atheist might be said to be, unbeknownst to her, under the watchful eye of God regardless of her creed, and for the believer, this is true. But we cannot say that God has really claimed subjectivity of the atheist, *from her*, until she has *acknowledged* that He is there. This is the argument that Gareth Matthews makes in his essay "Bodily Motions and Religious Feelings." Knowledge of God is not enough, though it may seem that way since God is omniscient. But if He knows all- my innermost thoughts and feelings, the prayers in my heart that have yet to be voiced- what is the point of something like prayer? Why praise God outwardly, why ask things of God? The question being asked here is really the same as "Why must I apologize to my friend if he knows I am sorry for what I did?" As Matthews concludes, this question is specious "because it presupposes that the only (or at least the primary) reason for saying (e.g.) that I am sorry for having done something wrong, is to bring about the result that someone else knows (or thinks) that I have certain feelings" (86). However, "an apology may have real point even when the person it is directed toward already knows, and I know that he knows, what is in my heart" (Matthews, 86). The point is that acknowledgement is important. It is not enough for God to know we love Him- we must make it clear that we do. We must acknowledge God by responding to and recognizing our relationship with Him. We must express our knowledge of Him, and also praise Him for His ability to know even what we do not speak. Only in acknowledging God can He truly become the supreme subject. Only by acknowledging God can we escape our own metaphysical isolation. We cannot make the choice to acknowledge the camera. It has the effect of "robbing us" of subjectivity whether or not we acknowledge its presence. This is why candid shots are still significant, why we can appreciate a subject, why she can be expressive, even if she was unaware she was being filmed or photographed. As we have just discussed, we cannot authentically hand over our subjectivity to the camera like we can to God, because there is no way to choose acknowledgement. This is a major difference between God and the camera: imparting our total subjectivity unto God involves the *choice* to acknowledge Him. We can also be *aware* of Him without acknowledging Him, but in that case we have not really made Him the supreme subject. Under the gaze of the camera, there is no choice³⁸. We are

³⁸ One might argue here that a way to "acknowledge" the camera is by, for example, looking right into it. Or,

either being filmed candidly, in which case our subjectivity is still drawn out and displayed on film, or we are aware of the camera's presence, in which case the effect is the same. I choose to make God subject, but the camera borrows my subjectivity for the moment, photocopies it, and gives it back.³⁹

If I cannot actively acknowledge the camera, is the camera acknowledged at all? It seems particularly crucial that we find a manner in which the camera can be acknowledged if we are to elevate it to God-like status, for, as we have seen, God only meaningfully exists as a subject for a human being by virtue of being acknowledged by that person. If the subject does not acknowledge the camera, what *does*? Cavell is particularly concerned with the question of the camera's acknowledgement, and for good reason. As we have just discussed, omniscience is not enough. The fact that the camera "knows" or "sees all" does not relieve it of the responsibility of somehow being acknowledged, if not by the subject then by some other entity (maybe itself!). How does a subject come to know the camera like she comes to know God? In Chapter 17 of *The World Viewed*, Cavell offers the hypothesis that the camera, to be made known, must be acknowledged in the work it does (128). Importantly, this will not be accomplished by the camera merely "tipping its hand;" a camera's acknowledgement will not merely entail a self-reference, the "mere fact of its presence" (Rothman and Keane, 210). Rather, the camera, in making a movie, has to acknowledge "something about what its presence comes to," "the mysterious work it does" (Rothman and Keane, 210). Like God, the camera cannot just declare itself. Perhaps the God of the Old Testament was more declaratory- in rage *and* in miracle- but the New Testament God (the modern God, if you will) abides by no such method. Cavell's answer to the question of how the camera ought to acknowledge its presence is this: the camera must acknowledge "not its being present in the world but its being *outside* the world" (130). However, he also holds that

someone might claim that the better actor is the better acknowledger. There is a certain sense in which these signify more of a willingness to express oneself on film, but the problem is still that one is *always* forced into *some sort of acknowledgement* by being "forced into expression" under the camera's gaze. God does no such forcing- whether or not to acknowledge God by expressing a love for and faith in Him is a choice for man to make, and being aware of God does not necessitate acknowledging God. On the other hand, being aware of the camera *necessitates* that we acknowledge it because even to be expressionless is to express oneself on film. In the case of a candid camera, similarly, one is expressive even when she is not aware of the camera's presence. The analog would be the person who has no knowledge of God, who is completely unaware of the idea of God. Surely, this person cannot express a love for God or acknowledge Him in anyway without knowledge of Him. But the unaware subject on film has, unbeknownst to her, already signed a waiver leasing her subjectivity to the camera.

³⁹ In summary, the difference between God and the camera is that God actually claims total subjectivity *from the subject* (man), but the camera does not- it is a machine. Rather, it removes total subjectivity in the sense that the actor can no longer hide from the time she was filmed onward. All is laid out; we see her soul, imprinted on the screen, and it is as though the camera is regazing every time the film is viewed. Each time an actor watches herself on film, she ought to feel a nagging sense that she is watching both a liberation and a violation of herself.

the camera can only do its work by revealing itself *in* its work (Rothman and Keane, 209). Thus, the seeming paradox here is that the camera must reveal its presence by acknowledging itself, but acknowledging itself will involve simultaneously revealing itself *in* the work and *outside* of the world of the work, for the world on screen is not a new world, but rather *our* world. What can we make of this claim? I will argue that what Cavell has essentially presented is *the paradox of free will*. To understand this idea, let us return to the passage with which this essay opened: "...no matter how much work goes into the making of a work, at some point the work must be *done*, given over, the object declared separate from its maker, autonomous; that he has seen it, that it is good." What Cavell is implying is that a crucial part of creating a work is declaring it done. But, more importantly, by declaring a work done, the artist has also made the work free- she has liberated it, made it autonomous. It now exists apart from her, separate from her. I will argue that this is the point Cavell is attempting to make in saying that the camera asserts its presence by acknowledging its outsideness to the world. To be outside of the world of the work is to declare the work's autonomy. It is for the camera to declare the work done⁴⁰, and thereby autonomous, separate from *it*. But the camera can only do so *by revealing itself in the work*. In the same way, men (as the work of God) are said to be made in His image. He resides in us; He is revealed in us, through us. Most literally, *God is us* (man) in the form of Christ⁴¹. But He is also outside of us and apart from us. When He saw that His work was good, our autonomy was declared, but we nonetheless remained images of Him, and that is how God reveals himself in us. Insofar as we are autonomous, we are free, free to deny God or acknowledge Him as we so desire. This is our free will, and it is the result of God's acknowledgement of Himself as the outsider but also of his acknowledgement of us as autonomous images of Him. This is the paradox of our free will: we are free, but only insofar as we are captured by God; He will always have a claim on us. This is the same claim the artist has on her work, and it is, as it turns out, the same claim the camera has on its work. As Moran says, "to identify the power of the camera as at one and the same liberating ('giving expression to the inexpressive'), and a form of capture, since within its gaze nothing, not even holding still and keeping silent, can count as withholding expression" (5). *Liberating capture*: this is the essence of God and of the camera. God

⁴⁰ It is not even the filmmaker or cameraman who claims a work finished, because what is "done" for the camera may not be the work the filmmaker even intended. The camera can capture what the filmmaker misses. The filmmaker's conception of the "done" work is seldom if ever in harmony with what the camera actually captures.

⁴¹ Dula provides fascinating insight into the human acknowledgement of Christ. When we denied Christ, we denied him subjectivity, we failed to acknowledge him. Only in his death did he remove our subjectivity, by giving us salvation, by giving us eternity. His death was his claim to our subjectivity insofar as it perpetuated man, giving him hope for eternity, eradicating death and making man timeless as God is timeless. "The crucified human body is our best picture of the unacknowledged human soul" (Dula, 214; Cavell, *The Claim of Reason*, 172-73). One way or another, God becomes the subject, even if He has to die in the process.

acknowledges himself by declaring himself other to, outside of, us. But in creating us in His image, He also acknowledges us. This is the essence of the camera's prescriptive ontology for Cavell. The camera ought to declare itself an outsider but must also reveal itself in the work. It accomplishes both by saying something about the subject, and it says something about the subject most skillfully by letting the subject reveal things about *it*: "A subject's revelations to the camera are also revelations of- by- the camera. This means that whenever it is allowed to do its work of allowing the world to reveal itself, the camera reveals itself as well" (Rothman and Keane, 209). It is in this sense that the camera's work- its subject- is afforded free will. The subject is liberated but captured by the camera's gaze, its subjectivity freed to film inasmuch as its subjectivity is *captured* by film. In acknowledging its subject, the camera acknowledges itself.

The point of this paper has been to argue that in *The World Viewed*, Cavell seems to present the ontology of the camera in such a way as to elevate it to a divine status. However, I also claimed that his construction of the camera in this way was *purposeful*. If we are convinced of the camera's divinity, what might we say was Cavell's point in suggesting this? For one, he seems to be making a broader claim about humanity as illustrated by the filmmaking enterprise. I mentioned earlier one of man's desires, which is to remove himself from subjectivity, from metaphysical isolation. He must do this through acknowledgement. Now a second wish, or rather a goal, of man, is to totally and completely represent reality (Shaviro, 63), a wish for a means by which to re-create the world in its own image (Rothman and Keane, 91). Film takes a big step in accomplishing this, not by presenting us with the world, but with the world's image, whose objects and persons are present but also absent to us (Rothman and Keane, 91). What this all amounts to is a human desire to see the total world, the complete and whole world. But certainly this is not possible, and this is precisely what Bazin refers to as the "myth of total cinema" (17). What man is wishing for here is, in fact, a capability held only by God. In this sense, man desires to be God. The filmmaking enterprise is an illustration of this human desire, one which Sartre also discusses in *Being and Nothingness*. In striving to view the world in total, man desires complete outsideness to the world, total removal of human subjectivity in favor of a total divine subjectivity, that which comes from being the ultimate or supreme other. He wishes to attain being-in-itself *par excellence*, a privilege only held by God. We want merely⁴² to exist, and the camera is the closest thing we have to being able to totally step outside the world in order to exist as such. But we must remember that the camera is a machine. *We* cannot be cameras, and even if we were, the camera is only an approximation of God, an emblem of perpetual visibility, not perpetual visibility itself.

⁴² Perhaps "merely" is not the best word, for there is nothing modest or inferior about being-in-itself, for Sartre.

But is this all Cavell really hoped to do in presenting the camera this way, merely to reveal the power-hunger of humanity? I think his purpose was more complex, and it has to do ultimately with the idea of *acknowledgement*. Rothman and Keane provide some keen insight in this vein, suggesting that what reveals the core of Cavell's project is the way in which he likens the outsideness of a camera to the world to the outsideness of him to his language. Insofar as he claims the camera must acknowledge itself by revealing itself both in its work but also outside the world of its work, so, too, must *The World Viewed* acknowledge itself. *The World Viewed* will not be acknowledged via self-reference- the writing cannot "merely refer to itself" (Rothman and Keane, 218). Rather, Cavell must reveal himself in its writing. The writing must acknowledge that Cavell is "capable of acknowledging its language as his," but also that he is outside the book's (his) language, that "*The World Viewed* is autonomous" (Rothman and Keane, 218). Most importantly, what such an acknowledgement allows is for the words "simply to happen to Cavell" (Rothman and Keane, 219). He is outside of them, now, *The World Viewed* being now separate from him. Why does this matter? The fact that *The World Viewed* is separate from Cavell (of his own acknowledgement, he has bestowed upon it autonomy) implies the "burden" Cavell's work essentially holds: to assure the world's presence by acknowledging his outsideness (Rothman and Keane, 219; Cavell, 130-133). The camera's divine role is thus not merely a symbol, nor is it merely a way of emphasizing the desire of man to be God. It is Cavell's attempt to save the world, to restore its *presentness*. But he is only able to accept this burden once he understands the necessity of acknowledgement, and also what acknowledgement entails. He sees the camera not as God but as a good illustration of what God is like. Importantly, then, for him to deconstruct the relationship between film and subject is to deconstruct the relationship between himself and God. This text is Cavell's religious journey, his finding of God, his coming to understand where he stands in relation to God. He does not desire for his relationship to this text to be like the relationship between the camera and its subject- he wants it to be like the relationship between God and himself. *The World Viewed* is Cavell's acknowledgement of his own prose via an acknowledgement of his God. Cavell writes this text in prostration to Him. It is his personal prayer not merely that the text be meaningful as he is meaningful in the eyes of God, but that the world- all of this that he sees- might be present, that the world viewed might be truly a world. It is Cavell's prayer for meaning.

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The Übermensch and Unmensch in Nietzsche's Philosophy and in *Faust*, Part One

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Abstract: Nietzsche likely discovered the term Übermensch (Overman) through Goethe's writings, especially Goethe's *Faust*. This term and the contrasting Unmensch (Monster) are used in Goethe's work to highlight Faust's failure to achieve his superhuman ideal. This paper compares and contrasts Faust's and Nietzsche's concepts of Übermenschlichkeit and analyzes the extent to which Faust is an Übermensch by each definition. It also proposes that a solution to Faust's restless strivings might be found in Nietzsche's suggestion of a synthesis between the Übermensch and the Unmensch.

Although Goethe wrote in the late eighteenth and early nineteenth centuries and Nietzsche wrote in the late nineteenth century, Nietzsche's intellectual inheritance from Goethe is clear. Nietzsche frequently refers to Goethe, praising him for his Dionysian spirit⁴³ and quoting his works to illustrate Nietzsche's own points.⁴⁴ Nietzsche is particularly known for his theory of the Übermensch (Overman) as a possible glorious future for humanity. Although Goethe's character of Faust shares many features of Nietzsche's Übermensch, Faust is doomed to strive to fulfill this ideal in vain. In his struggles, he condemns himself as an Unmensch (Monster). Nietzsche's suggestion of a synthesis between the Unmensch and Übermensch provides a potential solution to Faust's restless striving, a solution Faust fails to reach in *Faust*, Part One.

Übermensch, usually translated as Overman, Above-man, or Superman, is the combination of the German words über (above, over) and Mensch (human). Neither Nietzsche nor Goethe coined the term, but Goethe's use of it in his *Faust* may have suggested it to Nietzsche.⁴⁵ Unmensch, usually translated as brute or monster, uses the

⁴³ *Twilight of the Idols*, IX, sec. 49

⁴⁴ Nick Martin's article "Nietzsche's Goethe: In Sickness and in Health" presents Nietzsche's unusually positive view of Goethe, which is free from Nietzsche's normal ambivalence (e.g., with regards to Socrates and Christ) or changes of opinion (e.g., with regards to Wagner, Schopenhauer, Schiller) about historical figures.

⁴⁵ Richard Meyer traces the word back to theological texts from 1527. Although it is of course impossible to determine whence Nietzsche actually took the term, the theory that he was inspired by *Faust* is made more likely by the term's near-disappearance in German between 1784 (when Goethe last used it in his poem „Zueignung“) and

prefix un (not), and so literally means not-human. It is, and was at Nietzsche's time, a common German term. The adjective forms are übermenschlich and unmenschlich; the noun forms, Übermenschlichkeit and Unmenschlichkeit. Strictly speaking, the two are not opposites: Übermensch and Untermensch (below-human) would be more exactly contrasting terms. However, at the time of Nietzsche's writing, Unmenschlichkeit (translatable as inhumanity) was in German usage, whereas Untermensch did not become a popular term until the Nazi era.⁴⁶ Additionally, Übermenschlichkeit and Unmenschlichkeit are opposing extremes in that they both indicate a way to surpass mere Menschlichkeit (humanity), be it grandly or dreadfully, while Untermenschlichkeit implies a failure to reach the level of humanity at all. Thus, for Nietzsche, who focuses on the human potential to progress, Über- and Unmensch are suitable terms.

Faust's struggle in the first part of *Faust, Part One* (the so-called Gelehrtentragödie) stems from his frustrated desire to transcend the limits of human knowledge and reach what he considers Übermenschlichkeit. He does not use the term Übermensch, instead likening himself and his goal to godhood. He asks, upon perceiving the sign of the Macrocosm, "Am I a god?" (439).⁴⁷ It is the Earth-spirit, whom he summons with this sign, who introduces the term Übermensch. He does so mockingly, taunting Faust's fear at the spirit's presence: "What a pitiable fright / grips thee, thou Superman!" (489-90). That the spirit so clearly understands and derides Faust's aims nearly drives Faust to suicide. He admits, "I am not like the gods. Feel it I must! / I'm like the worm that burrows through the dust" (652-53). His comparison rejects the possibility of normal humanity: As he has failed to achieve Übermenschlichkeit, his position is that of a mere worm. He feels too keenly what Zarathustra will later preach: "You have made your way from worm to man, and much in you is still worm."⁴⁸ His inability to overcome both worm and man drives him to despair.

In the Gelehrtentragödie, Faust associates Übermenschlichkeit with knowledge. His goal is famously "to perceive whatever holds / the world together in its inmost folds" (382-383), and to him this understanding is synonymous with godhood. But over the course of the Gelehrtentragödie, Faust recognizes that he cannot achieve his aim of Übermenschlichkeit through book-learning alone. The "new impulse" (1085) Faust feels during his Easter stroll is both a sexual drive and a reconceptualization of how he ought

1883 (when Nietzsche revived it). See the 1904 *Jahresberichte für neuere deutsche Literaturgeschichte* or Meyer's original 1901 essay „Der Übermensch: ein wortgeschichtliche Skizze.“

⁴⁶ Nietzsche does use it in *The Gay Science*, but only to refer to literally non-human creatures.

⁴⁷ Quotes from *Faust* use George Priest's translation unless otherwise noted. Parenthesis indicate line numbers.

⁴⁸ Friedrich Nietzsche, "Thus Spoke Zarathustra," in *The Nietzsche Reader*, comp. Kieth Ansell Pearson and Duncam Large. (Malden, Massachusetts: Blackwell Publishing, 2006) 256.

to live. It inspires him to pursue *Übermenschlichkeit* through life experience. Thus he is prepared to make the bet Mephistopheles offers, a decision that involves a rejection of the external values of ethics and religion and the affirmation of life in this world. When making his bet with Mephistopheles, Faust sets this goal: “I, in my inmost being, will enjoy and know, / seize [greifen] with my soul the highest and most deep” (1771–72). The word *greifen* (like the English word “grasp”) means both to hold and to understand: the experience of life—in all its painful and joyful variety—is something Faust wishes not only to comprehend, but to grasp and hold. This change in Faust is not an abandonment of his quest for *Übermenschlichkeit* but rather a new tactic: He hopes to find it in experience and self-discovery rather than book-learning. This new methodology marks the beginning of the second part of *Faust, Part One* (the *Gretchentragödie*).

Faust’s experiential quest for *Übermenschlichkeit* also fails. When reflecting in the “forest and cavern” scene, he at first indicates his contentment with the results of his travels and his sense of awareness and power. However, Mephistopheles appears and derides Faust’s superficial satisfaction, and Faust soon falls into self-condemnation, referring to himself as a “monster [Unmensch] without goal or rest” (3349).⁴⁹ This self-condemnation is, however, unwarranted. As I will suggest later, his *Unmenschlichkeit* is actually progress towards Nietzschean *Übermenschlichkeit*. To Nietzsche, the *Unmensch* and the *Übermensch* belong together.

To determine how this synthesis can serve Faust, we must first see to what extent Faust already resembles the Nietzschean *Übermensch*. Nietzsche’s ideal of the *Übermensch* requires both destructive and creative moments. The Nietzschean *Übermensch* recognizes that God is dead and that alternative potential sources of absolute values (ethical systems, Platonism, asceticism, etc.) are simply deceptive lures away from life in this world. The *Übermensch* creates new values; he affirms life as an artistic project. He wills the past, present, and future and embraces fate, even when it leads to harm. When he calls something good, it is an aesthetic rather than a moral judgment: The good is strength, nobility, health, power. The *Übermensch* does not take life and choices seriously; he is lighthearted and joyous. Nietzsche frequently describes the *Übermensch* as laughing and dancing. When he creates his values, he is inspired by his laughing affirmation of life. In this way, he avoids having his new values become as other-worldly as the ones he destroyed that they are meant to replace. Importantly,

⁴⁹ Interestingly, this admission of *Unmenschlichkeit* is immediately followed by a kind of *amor fati* that is a principal characteristic of Nietzsche’s *Übermensch*. Although Faust’s cry that “What must be done, let it at once be so!” (3363) is somewhat desperate, is it an affirmation of fate that Faust’s subsequent actions support: He rushes to a rendezvous with Gretchen, despite his premonition that his entanglement with Gretchen will lead to their mutual destruction.

Nietzsche's conception of the *Übermensch* is not supposed to describe any existing person or race of people. Instead, it is a goal for humanity to work towards.

Especially at the start of the play, Faust's concept of *Übermenschlichkeit* and Faust himself only partially conform to Nietzsche's vision. To the Faust of the *Gelehrtentragödie*, *Übermenschlichkeit* or godhood comes from absolute understanding of the universe's mysteries. Nietzsche's *Übermensch* would scorn such a search for other-worldly truth. But the Nietzschean *Übermensch* respects and possesses power and to Faust, knowledge and power are identified. The earth-spirit that Faust summons tells him, "You have powerfully drawn me here"⁵⁰ and, later, "Thou are like the spirit thou canst comprehend [greifen], / not me!" (512-13) Again, the word *greifen* appears: Faust's alchemical knowledge gave him the power to compel the spirit to come to him, but his power to compel the spirit to remain is constrained by his limited understanding. Though perhaps misguided, Faust's will to knowledge is a manifestation of his desire for the power and strength of the *Übermensch*.

The play contains several scenes in which Faust's actions are particularly *übermenschlich* in Nietzsche's sense of the word. In the scene of Faust's bet with Mephistopheles, Faust at one point loses patience with himself and begins cursing. His first curses are rather anti-Nietzschean, including a curse against "the blinding of appearance that holds our senses thus confined!" (1593-94), but he ends by cursing the traditional moral virtues of hope, belief, and patience. Faust tears down the idols that have led him on a false quest for truth. Or perhaps he smashes them; either image deserves the praise of *Übermenschlichkeit* from the author of *The Twilight of the Idols, or, How to Philosophize with a Hammer*. In response to Faust's outburst, Mephistopheles' spirits sing:

Woe! Woe!

Thou hast destroyed

The beautiful world

With powerful fist [Faust].

'Tis smashed, downward hurled!

A demigod dashed it to bits! (1607-12)

Faust's hazy conception of *Übermenschlichkeit* likened it to godhood, and now, in his destructive project, he is both "powerful" and a "demigod." He had sought those characteristics through knowledge for so long, when all he needed was a hammer.

⁵⁰ My translation; Priest's attempts to conform to Goethe's rhythm and rhyme scheme make his translation of this line too liberal to be of use here.

The words Faust employs when accepting Mephistopheles' pact are particularly this-worldly. Mephistopheles offers to serve Faust in this world if Faust will do the same for him in the next, and Faust calmly replies:

The yonder is to me a trifling matter.
Should you this world to ruins shatter,
The other then may rise, its place to fill.
'Tis from this earth my pleasure springs,
And this sun shines upon my sufferings;
When once I separate me from these things,
Let happen then what can and will. (1660–65)

Like Nietzsche's *Übermensch*, Faust rejects guiding his actions by the principles of another world. He affirms his life here, both in "pleasure" and "sufferings," and refuses to let concern about an afterlife prevent him from experiencing his current life fully, a project he furthers by accepting Mephistopheles' bet.

Although Faust succeeds in destroying other-worldly values and in affirming life in general, he fails to create his own values to replace the ones he rejects. This valuelessness is partly why Mephistopheles can so easily manipulate Faust. Perhaps as the result of this lack of creativity, Faust has not reached the point of being able to laugh and dance as the *Übermensch* should. He cannot say that the past is as he willed it and so he frequently broods, overcome by either ennui or remorse. At the witches' Walpurgisnacht celebration—a Dionysian orgy *par excellence*—Faust's pleasure is disrupted by a vision of Gretchen. Faust ceases to dance and to enjoy himself because he is overwhelmed by remorse. He pictures Gretchen pale and shackled, with an ominous line of blood on her neck. The *Übermensch* would, as with all by-gones, affirm the past by deciding to have willed it so. Faust is not so callous; he cannot laugh at this turn of fate. Rather than displaying *Übermenschlichkeit*, he reflects on monstrosity. Upon discovering that Gretchen is in fact in prison and condemned to death, he lashes out at Mephistopheles for concealing the knowledge from him, calling Mephistopheles a monster ("Untier"—literally, un-animal and thus even lower than an inhuman *Unmensch*). Mephistopheles rebuts, "Who was it that plunged her into ruin? I or you?"⁵¹ The monster is Faust.

Nietzsche's writings suggest that the *Unmensch* and the *Übermensch* are not mutually exclusive. In *On the Genealogy of Morals*, he describes Napoleon as a "synthesis

⁵¹ I have not included line numbers here because this scene is in prose (the only such scene in the play).

of monster [Unmensch] and Übermensch".⁵² In one of Nietzsche's notebooks, he writes, "Man is beast [Untier] and superbeast [Übertier]; higher man is Unmensch and Übermensch; these belong together ..."⁵³ Clearly, despite the apparent contradiction in the terms' meanings, Nietzsche believes Unmenschlichkeit and Übermenschlichkeit can coexist. In a way, this makes sense: Übermenschlichkeit requires the rejection of the values that define the majority of humanity. But a refusal to conform to these values could also be described as inhuman or monstrous – unmenschlich. Even the process of creating new values is unmenschlich precisely in that it is übermenschlich. It is not inhuman in the sense of monstrous, but it is inhuman in that it is beyond the capabilities of modern man. In both the destructive and creative moments, becoming more than a mere man – becoming an Übermensch – requires giving up one's humanity (Menschlichkeit) for Unmenschlichkeit.

Nietzsche may not display the same enthusiasm for this Unmensch-Übermensch synthesis as he does for the pure Übermensch. He calls this synthesis the "higher man" which, as described in *Thus Spoke Zarathustra*, is still far from Nietzsche's ideal for humanity. When Zarathustra gathers the higher men around him, he still needs to urge them to learn to laugh and to dance, and he is disappointed when they flee from his lion. However, in other texts,⁵⁴ Nietzsche uses "higher man" or "higher type" and "Übermensch" interchangeably. This is etymologically supported: "higher" and "above [über]" convey the same spatial relationship and metaphorical superiority. So is it the Übermensch that contains the Unmensch, or is the mixture of the two a less-than-ideal higher man? This is simply one of the many ambiguities and contradictions in Nietzsche's writings. But regardless of whether the higher man and the Übermensch are one and the same, each is obviously superior to mere humanity and therefore a worthy goal. If "man is a rope, fastened between animal and Overman,"⁵⁵ man progresses whether he steps to higher manhood or leaps to Übermenschlichkeit.

Faust's struggle arises from his desire for Übermenschlichkeit and his recognition that he falls into Tierischkeit [animal-ness] or Unmenschlichkeit instead. In the *Gelehrtentragödie*, he compares himself to a worm, and in the *Gretchentragödie* he refers to himself as an Unmensch. Already, then, he has made some progress: His abandonment of his quest for metaphysical truth in favor of experience brings him closer to Nietzsche's ideal (for the Unmensch's unique relation to the Übermensch

⁵² Friedrich Nietzsche, "On the Genealogy of Morality, First Essay," in *The Nietzsche Reader*, comp. Kieth Ansell Pearson and Duncam Large. (Malden, Massachusetts: Blackwell Publishing, 2006) 406.

⁵³ *My translation*. German from:

Friedrich Nietzsche, "Der Wille zur Macht" in *Nietzsche's Werke*, part two, Vol. XV (C.G. Naumann, 1901) 479.

⁵⁴ For instance, section four of *The Antichrist*

⁵⁵ Friedrich Nietzsche, "Thus Spoke Zarathustra," in *The Nietzsche Reader*, comp. Kieth Ansell Pearson and Duncam Large. (Malden, Massachusetts: Blackwell Publishing, 2006) 257.

makes Unmenschlichkeit a nobler situation than Tierischkeit), though Faust himself may not recognize his progress. Specifically, the movement from Tierischkeit to Unmenschlichkeit was Faust's rejection of other-worldly, other-imposed values. He articulates and acts on this rejection in the pact scene in his study. As the "worm" of the first scene, he was an insignificant creature striving to understand absolute truths that, if they existed at all, were beyond human perception or comprehension. In accepting Mephistopheles' pact, he scorns the very religious and metaphysical truths that formerly provided the basis for his quest for knowledge. His action is monstrous, but the step from insignificance and frustration to monstrosity is progress.

However, the step that cements Faust's transition to Unmenschlichkeit also impedes him from reaching Übermenschlichkeit. In making his pact, he has bound himself eternally to Mephistopheles, the spirit of negation. Just as Mephistopheles reveled in Faust's rampage of value-destruction, he will prevent Faust from value-creation. When Mephistopheles claims, "I am the spirit that denies! / And rightly too; for all that doth begin / should rightly to destruction run" (1338-40), he makes no exception for Faust's or any other individual's self-created values. Faust's quest for Übermenschlichkeit is therefore hampered by his association with Mephistopheles, but it is still not rendered impossible. Mephistopheles whines that the world remains and new creations arise despite all of his destructive efforts. Perhaps there is then hope for Faust's creative project too.

Believing his destructive influence can win out, Mephistopheles in fact encourages Faust's creative efforts. After Faust's destructive outburst in his study, Mephistopheles' spirits tell him he has "destroyed the beautiful world," but then implore him to "build it again, / build it aloft in thy breast!" (1620-21). Mephistopheles' tactics here are particularly devilish. In encouraging Faust's ever-frustrated striving towards Übermenschlichkeit, he in fact leads Faust in deeper levels of Unmenschlichkeit: Faust becomes more monstrous as his creative efforts (e.g., his search for love with Gretchen) are met with disaster. This serves Mephistopheles in his separate bet with God, since he hopes to win that bet by making Faust unredeemable.

A possible solution to Faust's struggle lies in Nietzsche's suggestion of the Unmensch-Übermensch synthesis. Mephistopheles channels Faust's frustration about his own Unmenschlichkeit to create destruction, as in the "forest and cavern" scene when he goads Faust from his peaceful contentment into lust and despair. If Faust were to embrace his Unmenschlichkeit as a companion to the Übermenschlichkeit he seeks, he might be able to overcome Mephistopheles' destructive influence and exercise his creativity. And in affirming his monstrosity and willing the past—however unmenschlich—Faust would gain some of the lightheartedness of Übermenschlichkeit.

In recognizing that the Unmensch and Übermensch belong together, Faust will learn to laugh and dance, and Mephistopheles' control over him will vanish. By accepting the progress he has made without dwelling on it, Faust will gain the ability to progress even further.

Faust's early vision of Übermenschlichkeit achieved through knowledge was an impossible dream, and in *Faust, Part One* his association with Mephistopheles prevents him from the creativity and joyousness necessary to realize a Nietzschean ideal of Übermenschlichkeit.⁵⁶ But although he does not manage to do so, Faust has the potential to reach Übermenschlichkeit by recognizing the possibility for synthesis between the Unmensch he has become and the Übermensch he wants to be. Eighty years after Goethe, Nietzsche has provided a solution to Faust's frustrated striving.

⁵⁶ Schuyler Dean Hoslett, in his essay "The Superman in Nietzsche's Philosophy and Goethe's *Faust*," suggests that Faust achieves a sort of ethical Übermenschlichkeit that surpasses Nietzsche's ideal at the end of *Faust, Part Two*.

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